

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

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| MARTIN BROTHERS CONSTRUCTION, |) | |
| |) | |
| Plaintiff, |) | |
| |) | No. 24-1118C |
| v. |) | |
| |) | (Judge Silfen) |
| UNITED STATES, |) | |
| |) | |
| Defendant. |) | |

CONSENT MOTION FOR ENLARGEMENT OF TIME TO RESPOND TO COMPLAINT

Pursuant to Rules 6(b), 6.1, and 7(b) of the Rules of the United States Court of Federal Claims, defendant, the United States respectfully requests that the Court enlarge the time for defendant to respond to plaintiff Martin Brothers Construction’s (MBC) complaint by 45 days, to and including July 7, 2025. The current deadline is March 23, 2025. The Court has previously granted three enlargements of time totaling 242 days for this purpose. However, 182 of those days were requested by previous counsel for defendant, not undersigned counsel. Douglas Hibshman, counsel for MBC, has represented plaintiff’s consent to this request.

We are mindful of the Court’s order that no further extensions would be granted absent extraordinary circumstances. However, we submit that extraordinary circumstances exist justifying our request. Beyond the normal press of business and ordinary workload considerations, extraordinary circumstances have arisen that could not have been foreseen at the time of our last request. *Cf. Elec. Frontier Found. v. Dep’t of Justice*, 517 F. Supp. 2d 111, 115-16 (D.D.C. 2007) (finding that an agency was experiencing exceptional circumstances where it remained “115 positions under its funded staffing level” and could not remedy this because of a hiring freeze).

In early April 2025, undersigned counsel was assigned to work on a series of cases—filed in multiple district courts and at the Court of International Trade—defending the President’s

imposition of tariffs pursuant to the International Emergency Economic Powers Act (IEEPA). These cases now total eight in number, and undersigned counsel is principal counsel for the Government in three of those cases before the Court of International Trade. Since early April, counsel has been required to—in addition to her normal workload¹—expend an extraordinary amount of time contending with matters related to the IEEPA cases, multiple of which have proceeded on an extremely expedited timeline.

In one such case before the Trade Court—*V.O.S. Selections, Inc. v Trump*, No. 25-00066 (Ct. Int’l Trade)—counsel was required to file a response to an application for a temporary restraining order on April 21, 2025, as well as a combined response to a motion for preliminary injunction and motion for summary judgment on April 29, 2025. Counsel is also required to prepare for and attend a hearing on the preliminary injunction and summary judgment motions on May 13, 2025. In another case brought by multiple states—*Oregon, et al. v. Trump*, No. 25-00077 (Ct. Int’l Trade)—counsel will be required to: (1) file a response to a brief expressing the states’ views on the *V.O.S.* litigation on May 12, 2025; (2) file a response to the states’ motion for preliminary injunction and motion for summary judgment on May 16, 2025; and (3) prepare for and attend a hearing on May 21, 2025.² And, in the third case before the Trade Court—*Princess Awesome, LLC v. Trump*, No. 25-00078 (Ct. Int’l Trade)—we expect plaintiffs to imminently file a motion for summary judgment, to which we will likely be required to respond and attend a hearing in very short order.

¹ Counsel’s normal workload included preparing for and attending two hearings in early April, a number of briefs filed throughout the past several weeks in various cases, and heavy active discovery in *Portland Mint v. United States*, No. 20-518C (Fed. Cl.), during March and early April.

² The Trade Court only issued the order setting forth these deadlines on May 8, 2025. Plaintiffs’ motion was filed on May 7, 2025.

Counsel has also been required to work on a multitude of matters in the district court cases. In one case—*Webber v. Dep’t of Homeland Security*, No. 4:25-cv-00026-DLC (D. Montana), *currently on appeal*, No. 25-2717 (9th Cir.)—counsel has worked with a team to prepare and file, between April 14, 2025 and May 12, 2025, a motion to transfer, motion to stay, response to motion for preliminary injunction, response to motion for reconsideration, response to motion for injunction pending appeal, and motion to dismiss appeal. In another—*Emily Ley Paper Inc. v. Trump*, 3:25-cv-00464-TKW-ZCB (N.D. Fl.)—counsel has worked with a team to prepare and file a motion to transfer, and will be working with the team to file a reply to the motion to transfer and response to amicus briefs, both due on May 19, 2025. In *California v. Trump*, 3:25-cv-03372-JSC (N.D. Ca.), counsel has worked with a team to file a motion to transfer and a reply to the motion to transfer, and will be required to help prepare for an upcoming hearing scheduled May 22, 2025. And in *Learning Resources, Inc. v. Trump*, 1:25-cv-01248-RC (D.D.C.), counsel has worked with a team to file a motion to transfer and response to motion for preliminary injunction, and will be required to help prepare for and attend an upcoming hearing scheduled May 27, 2025. Counsel expects that the extraordinary amount of time and work required for the IEEPA cases will extend into the next several weeks.

In addition, MBC and the Government have been engaged in discussions concerning MBC’s complaint, the claims set out therein, and the damages MBC claims. The parties continue to engage in mutually beneficial discussions related to MBC’s underlying claims and MBC is continuing to work with the Government to provide documentation and information to respond to Government inquiries concerning MBC’s claims and claimed damages. An extension of time would allow the parties to continue these discussions and exchanges of information and

potentially resolve some of the claims at issue in the case, which would benefit judicial economy.

For these reasons, we respectfully request the Court grant a 45-day enlargement of time within which to respond to plaintiff's complaint.

Respectfully submitted,

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